

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**

In re:

CASE NO. 06-12232-BKC-AJC

ANGEL BRETO,

Debtor.

**ORDER GRANTING DEBTOR'S MOTION TO DIRECT THE STATE OF FLORIDA
TO REINSTATE THE DEBTOR'S DRIVER'S LICENSE**

THIS CAUSE came before the Court for hearing on November 15, 2006 upon the Debtor's *Renewed Motion to Direct State of Florida Department of Transportation to Reinstate Debtor's Driver's License*. The Debtor asserts the State of Florida's suspension of the Debtor's driver's license is in violation of the automatic stay under 11 U.S.C. §362 because the suspension is a vehicle for the collection of a debt. The Debtor is requesting the Court direct the State of Florida to reinstate his license.

The facts, as presented by the Debtor, are that the State of Florida suspended the Debtor's driver's license, pre-petition, for failure to satisfy a debt owing to Creditor Progressive Consumer Insurance. At the hearing, counsel for the Debtor indicated that the Debtor's discharge had already been issued in this case, and the Court concluded that the basis for relief was not therefore a violation

of the automatic stay but rather a violation of the permanent injunction afforded by 11 U.S.C. §727. However, upon further review of the record, the Court has determined that the discharge has not yet been issued to the Debtor. Accordingly, the Court will consider the Debtor's request for relief in the context of a stay violation; but regardless of the basis for relief, the Court believes the Debtor is entitled to reinstatement of his driver's license because the suspension of the license, or rather the failure to reinstate it post-petition, is an effort to collect on a debt.

The Court agrees with the holding in *In re Delvar*, Case No. 06-13107-BKC-RBR that suspension of the Debtor's license stems from a collection remedy statute for motor vehicle accident judgment creditors and not the State's health and safety concerns. The *Delvar* court relied on *In re Duke*, 167 B.R. 324 (Bankr. D.R.I. 1994) which, when presented with the same issue, found that "such statutes by the State are collection devices provided by the State to assist in the recovery of claims by motor vehicle accident judgment creditors." The *Duke* court reasoned that "[i]f the focus of the police or regulatory power is directed at the debtor's financial obligations rather than the State's health and safety concerns, Code Section 362(b)(4) is inapplicable." 167 B.R. at 325. In *Duke* and *Delvar*, the courts determined that such a collection remedy is a violation of the automatic stay under 11 U.S.C. §362. So too, this Court agrees that the continued suspension of the Debtor's license, and failure to reinstate, is a violation of 11 U.S.C. §362.

It is hereupon

ORDERED AND ADJUDGED that the motion to direct State of Florida to reinstate Debtor's driver's license is GRANTED and the State of Florida is directed to reinstate the Debtor's driver's license forthwith.

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Copies to:

John Bristol, Esq. who is directed to serve a conformed copy of this Order upon all interested parties and shall immediately file a Certificate of Service of same.